

REMARKS

Summary of Office Action

Claims 1, 2, 5-16, 27, 29-39, 41, 43-46, 49-54, 58, 59, 64, 65, 67, 72, 73, 76, and 78-87 were pending in this application.

The Examiner allowed claims 2, 5-16, 45, 46, 49, 67, 72, 73, 76, and 78-85.

The Examiner objected to claim 59 as being dependent upon a rejected base claim, but indicated that this claim would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 50-54, 58, and 65 were finally rejected under 35 U.S.C. § 102(b) as being anticipated by Lerch U.S. Patent No. 5,800,436 (hereinafter "Lerch").

Claims 27, 29, 35-39, 41, 43, 86, and 87 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bremer et al. U.S. Patent No. 6,022,351 (hereinafter "Bremer").

Dependent claims 30-32 and 34 were finally rejected under 35 U.S.C. § 103(a) as being obvious from Bremer in view of Herrington et al. U.S. Patent No. 6,379,363 (hereinafter "Herrington"). Dependent claim 33 was finally rejected under 35 U.S.C. § 103(a) as being obvious from Bremer in view of Lerch. Dependent claim 44 was finally rejected under 35 U.S.C. § 103(a) as being obvious from Bremer. And dependent claim 64 was finally rejected under 35 U.S.C. § 103(a) as being obvious from Lerch.

The Examiner finally rejected claims 1, 50-54, 58, 59, 64, and 65 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. In particular, the Examiner alleged that a claim 1 limitation was new matter.

Summary of Applicants' Reply

Applicants appreciate the allowance of claims 2, 5-16, 45, 46, 49, 67, 72, 73, 76, and 78-85, and the indication that claim 59 contains allowable subject matter.

Applicants have proposed amending independent claim 1 to include the limitations of dependent claims 58 and 59, and have accordingly proposed canceling claims 58 and 59. The proposed amendment of claim 1 also deletes the alleged new matter and a limitation the Examiner said has no patentable weight. The proposed amendment of claim 1 also rewords the limitation regarding the first and second positions of the clamping members.

Applicants have proposed amending independent claim 27 to more concisely define the invention, and have proposed canceling dependent claim 86.

Lastly, applicants have proposed amending dependent claim 87 to delete an unnecessary phrase in order to conform it to independent claim 27, from which it depends.

No new matter has been added.

Reconsideration of this application in view of the proposed amendments and following remarks is respectfully requested.

Showing of Good and Sufficient Reasons
Under 37 C.F.R. § 1.116(b)(3)

Applicants request amendment of this application, even though a final rejection has been issued. The proposed amendment of claim 1 adds the limitations of dependent claims 58 and 59, of which the Examiner indicated that claim 59 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The proposed amendment of independent claim 27 adds a limitation (a “smooth” extension member) that appears in allowed independent claims 2, 11, and 45 and was previously discussed in applicants’ November 10, 2005 Reply To Office Action. Thus, applicants believe that these amendments should not require any additional search or consideration. Moreover, these amendments should place the application in condition for allowance. Accordingly, applicants respectfully request entry of the proposed amendments and consideration of the following remarks.

Rejections of Claims 1, 50-54, 64, and 65 Under 35 U.S.C. § 112, First Paragraph

Claims 1, 50-54, 64, and 65 were finally rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. In particular, the Examiner alleged that the claim 1 limitation “outside of and adjacent the outer surface of the second clamping member” was new matter.

These rejections are respectfully traversed.

Independent claim 1, amended as proposed, deletes the phrase “outside of and,” leaving the phrase “an integrally formed stop on the extension member adjacent the outer surface of the second clamping member” in the claim. This phrase is supported in applicants’ specification at, for example, page 2, lines 25-27: “The cranial flap clamp also includes a stop ... adjacent the outer surface of the second clamping member” Thus, claim 1, amended as proposed, should now comply with the written description requirement

Dependent claims 50-54, 64, and 65, which depend directly or indirectly from claim 1, should also now comply with the written description.

Accordingly, applicants respectfully request that the rejections of claims 1, 50-54, 64, and 65 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Rejections of Claims 1, 50-54, and 65 Under 35 U.S.C. § 102(b)

Independent claim 1 and dependent claims 50-54, and 65 were finally rejected under 35 U.S.C. § 102(b) as being anticipated by Lerch.

These rejections are respectfully traversed.

Independent claim 1, amended as proposed, includes the limitations of dependent claims 58 and 59, of which the Examiner indicated that claim 59 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 58 and 59 have been accordingly canceled as proposed.

Independent claim 1 should now be allowable and, therefore, dependent claims 50-54 and 65 should now also be allowable (i.e., dependent claims are allowable if their independent claim is allowable).

Accordingly, applicants respectfully request that the rejections of claims 1, 50-54 and 65 under 35 U.S.C. § 102(b) be withdrawn.

Rejections of Claims 27, 29, 35-39, 41, 43, and 87 Under 35 U.S.C. § 102(e)

Independent claim 27 and dependent claims 29, 35-39, 41, 43, and 87 were finally rejected under 35 U.S.C. § 102(e) as being anticipated by Bremer.

These rejections are respectfully traversed.

Independent claim 27, amended as proposed, requires a smooth extension member extending from the first clamping member and between the bone flap and skull. (Dependent

claim 86, which required a “substantially smooth” extension member, has been accordingly canceled as proposed.)

As discussed in applicants’ November 10, 2005 Reply To Office Action, a smooth extension member advantageously allows the second member to easily slide towards the first member. That is, less force is needed to move the second member toward the first than would be needed if the extension member had ridges or ratchet teeth in contact with the second member. This allows a surgeon to apply less force to the clamp, and thus to better control the clamp, during what is typically a delicate surgical procedure. Also, a smooth extension member may be less costly to manufacture than one with teeth or ridges, because such teeth or ridges usually involve additional machining operations.

Bremer does not disclose or suggest a smooth extension member. Bremer discloses ratchet teeth 14 on at least “sufficient portions” of its shank 13 “to allow effective fastening of the fastener element 10” (Bremer column 4, lines 27-29).

Herrington also does not disclose or suggest a smooth extension member. Herrington discloses a stem 16 having “a plurality of fine rectangularly-shaped annular ridges 32” and “a plurality of coarse arcuately-shaped annular ridges 34” (Herrington column 4, lines 30-36). Furthermore, Herrington discloses that its cap 14 has a plurality of distal tips 58 that form “an engagement region 59 about the stem 16” in a ratchet-type arrangement with the annular ridges (Herrington column 4, line 67; *see also* FIG. 3).

Although Lerch discloses a pin 11, no cited reference provides any reason or motivation whatsoever to replace Bremer’s shank 13 or Herrington’s stem 16 with Lerch’s

pin 11, because the functions performed by ratchet teeth 14 and annular ridges 32/34 would be lost by such a replacement.

Therefore, independent claim 27 is not anticipated by or rendered obvious from Bremer, Herrington, or Lerch, either alone or in combination with each other.

For at least these reasons, dependent claims 29, 31, 35-39, 41, 43, and 87, which depend directly or indirectly from claim 27, are also not anticipated by or rendered obvious from Bremer and the other cited references (i.e., dependent claims are patentable if their independent claim is patentable).

Accordingly, applicants respectfully request that the rejections of claims 27, 29, 35-39, 41, 43, and 87 under 35 U.S.C. § 102(e) be withdrawn.

Rejections of Dependent Claims Under 35 U.S.C. § 103(a)

Dependent claims 30-32 and 34 were finally rejected under 35 U.S.C. § 103(a) as being obvious from Bremer in view of Herrington. Dependent claim 33 was finally rejected under 35 U.S.C. § 103(a) as being obvious from Bremer in view of Lerch. Dependent claim 44 was finally rejected under 35 U.S.C. § 103(a) as being obvious from Bremer. And dependent claim 64 was finally rejected under 35 U.S.C. § 103(a) as being obvious from Lerch.

These rejections are respectfully traversed.

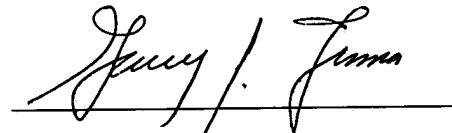
For at least the reasons discussed above regarding independent claims 1 and 27, dependent claims 30-34, 44, and 64, which depend directly or indirectly from either independent claim 1 or 27, are not obvious from any of the cited references, either alone or in combination (i.e., dependent claims are patentable if their independent claim is patentable).

Accordingly, applicants respectfully request that the rejections of claims 30-34, 44, and 64 under 35 U.S.C. § 103(a) be withdrawn.

Conclusion

The foregoing demonstrates that claims 1, 2, 5-16, 27, 29-39, 41, 43-46, 49-54, 64, 65, 67, 72, 73, 76, 78-85, and 87 are allowable. This application is therefore in condition for allowance. Reconsideration, entry of the proposed amendments, and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Garry J. Tuma", is written over a horizontal line.

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